



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Chrono

84-1431

SPECIAL

April 13, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO:

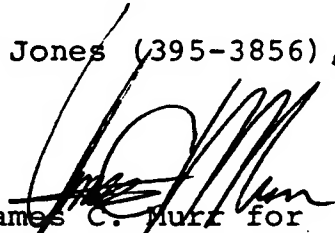
DEPARTMENT OF JUSTICE
DEPARTMENT OF THE TREASURY
DEPARTMENT OF DEFENSE
CENTRAL INTELLIGENCE AGENCY
NATIONAL SECURITY COUNCIL
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
VETERANS ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF AGRICULTURE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES ADMINISTRATION
SMALL BUSINESS ADMINISTRATION

SUBJECT: H.R. 3987, as ordered reported, the "National Archives and Records Administration Act of 1984," and S. 905, as reported (same title).

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular No. A-19.

If you object to either of the above-referenced bills, or any of their provisions, please submit a proposed bill report addressed to the appropriate Congressional committee to OMB for clearance as soon as possible. We want to clear proposed bill reports no later than April 20, 1984.

Direct your questions to Gregory Jones (395-3856), of this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosure (H.R. 3987 enclosed; S. 905 not enclosed).

cc: Mary Ann Chaffee Frank Reeder Jerry Coffee Roger Greene
Frank White

[COMMITTEE PRINT]

APRIL 5, 1984

[Showing H.R. 3987, As Reported by the Subcommittee on
Legislation and National Security]

STAT

98TH CONGRESS
2D SESSION

H. R. 3987

To improve the preservation and management of Federal records, and for other
purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1983

Mr. BROOKS (for himself and Mr. ENGLISH) introduced the following bill; which
was referred to the Committee on Government Operations

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 27, 1983]

A BILL

To improve the preservation and management of Federal
records, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *That this Act may be cited as the "National Archives and*
4 *Records Administration Act of 1984".*

J. 32-820—0—1

1 *TITLE I—ESTABLISHMENT OF AN INDEPEND-*
2 *ENT NATIONAL ARCHIVES AND RECORDS*
3 *ADMINISTRATION*

4 *ESTABLISHMENT*

5 *SEC. 101. Section 2102 of title 44, United States*
6 *Code, is amended to read as follows:*

7 *"§ 2102. Establishment*

8 *"There shall be an independent establishment in the ex-*
9 *ecutive branch of the Government to be known as the Nation-*
10 *al Archives and Records Administration. The Administration*
11 *shall be administered under the supervision and direction of*
12 *the Archivist."*

13 *ORGANIZATION AND GENERAL AUTHORITY*

14 *SEC. 102. (a) Chapter 21 of title 44, United States*
15 *Code, is amended—*

16 *(1) by redesignating sections 2103 through 2114*
17 *as sections 2107 through 2118, respectively; and*

18 *(2) by inserting after section 2102 the following*
19 *new sections:*

20 *"§ 2103. Officers*

21 *"(a) The Archivist of the United States shall be ap-*
22 *pointed by the President by and with the advice and consent*
23 *of the Senate. The Archivist shall be appointed without*
24 *regard to political affiliations and solely on the basis of the*
25 *professional qualifications required to perform the duties and*

1 responsibilities of the office of Archivist. The Archivist may
2 be removed from office by the President. The President shall
3 communicate the reasons for any such removal to each House
4 of the Congress.

5 “(b) The Archivist shall be compensated at the rate pro-
6 vided for level III of the Executive Schedule under section
7 5314 of title 5.

8 “(c) There shall be in the Administration a Deputy Ar-
9 chivist of the United States, who shall be appointed by and
10 who shall serve at the pleasure of the Archivist. The Deputy
11 Archivist shall be established as a career reserved position in
12 the Senior Executive Service within the meaning of section
13 3132(a)(8) of title 5. The Deputy Archivist shall perform
14 such functions as the Archivist shall designate. During any
15 absence or disability of the Archivist, the Deputy Archivist
16 shall act as Archivist. In the event of a vacancy in the office
17 of the Archivist, the Deputy Archivist shall act as Archivist
18 until an Archivist is appointed under subsection (a).

19 **“§ 2104. Administrative provisions**

20 “(a) The Archivist shall prescribe such policies, stand-
21 ards, criteria, procedures, rules, and regulations as the Archi-
22 vist finds necessary or appropriate to carry out the functions
23 of the Administration. The head of each Federal agency shall
24 issue such orders and directives as may be necessary to con-
25 form the activities of the agency with the policies, standards,

1 *criteria, procedures, rules, and regulations prescribed by the*
2 *Archivist.*

3 “(b) *Except as otherwise expressly provided by law, the*
4 *Archivist may delegate functions to designated officers and*
5 *employees of the Administration, and may authorize such*
6 *successive redelegations of such functions as the Archivist*
7 *may deem to be necessary or appropriate. A delegation of*
8 *functions by the Archivist shall not relieve the Archivist of*
9 *responsibility for the administration of such functions.*

10 “(c) *The Archivist is authorized to establish, maintain,*
11 *alter, or discontinue such regional, local, or other field offices*
12 *as the Archivist finds necessary or appropriate to perform the*
13 *functions of the Archivist or the Administration.*

14 “(d) *The Archivist may establish advisory committees to*
15 *advise him with respect to any function of the Archivist or*
16 *the Administration. Members of any such committee shall*
17 *serve without compensation but shall be entitled to transpor-*
18 *tation expenses and per diem in lieu of subsistence in accord-*
19 *ance with section 5703 of title 5.*

20 “(e) *The Archivist shall advise and consult with inter-*
21 *ested Federal agencies with a view to obtaining their advice*
22 *and assistance in carrying out the purposes of this chapter.*

23 “(f) *Each Federal agency is required to furnish to the*
24 *Archivist, upon request, any information or other data which*

1 *the Archivist finds necessary to carry out the duties of the*
2 *Archivist.*

3 *"(g) If authorized by the Archivist, officers and employ-*
4 *ees of the Administration having investigatory functions are*
5 *empowered, while engaged in the performance of their duties*
6 *in conducting investigations, to administer oaths.* ✓

7 ***"§ 2105. Personnel and services***

8 *"(a) The Archivist is authorized to select, appoint,*
9 *employ, and fix the compensation of such officers and em-*
10 *ployees, pursuant to part III of title 5, as are necessary to*
11 *perform the functions of the Archivist and the Administra-*
12 *tion.*

13 *"(b) The Archivist is authorized to obtain the services of*
14 *experts and consultants under section 3109 of title 5.*

15 *"(c) Notwithstanding the provisions of section 973 of*
16 *title 10 or any other provision of law, the Archivist, in carry-*
17 *ing out the functions of the Archivist or the Administration,*
18 *is authorized to utilize in the Administration the services of*
19 *officials, officers, and other personnel in other Federal agen-*
20 *cies, including personnel of the armed services, with the con-*
21 *sent of the head of the agency concerned.*

22 *"(d) The Archivist is authorized to accept and utilize*
23 *voluntary and uncompensated services.*

1 *"§ 2106. Reports to Congress*

2 *"The Archivist shall submit to the Congress, in Janu-*
3 *ary of each year and at such other times as the Archivist*
4 *finds appropriate, a report concerning the administration of*
5 *functions of the Archivist and the Administration."*

6 *(b) Section 2101 of title 44, United States Code, is*
7 *amended—*

8 *(1) by designating the two indented paragraphs as*
9 *paragraphs (1) and (2), respectively;*

10 *(2) by striking out "sections 2103-2113 of this*
11 *title" in the matter preceding the first such paragraph*
12 *and inserting in lieu thereof "this chapter";*

13 *(3) by striking out the period at the end and in-*
14 *serting in lieu thereof a semicolon; and*

15 *(4) by adding at the end thereof the following new*
16 *paragraphs:*

17 *"(3) 'Archivist' means the Archivist of the United*
18 *States appointed under section 2103;*

19 *"(4) 'Administration' means the National Ar-*
20 *chives and Records Administration established under*
21 *section 2102; and*

22 *"(5) 'Federal agency' means any executive de-*
23 *partment, military department, Government corpora-*
24 *tion, Government-controlled corporation, or other estab-*
25 *lishment in the executive branch of the Government*
26 *(including the Executive Office of the President), any*

1 independent regulatory agency, or any establishment in
 2 the legislative or judicial branch of the Government
 3 (except the Senate and the House of Representa-
 4 tives).".

5 (c)(1) The table of sections for chapter 21 of title 44,
 6 United States Code, is amended to read as follows:

7 **"CHAPTER 21—NATIONAL ARCHIVES AND RECORDS**
 8 **ADMINISTRATION**

"Sec.

"2101. Definitions.

"2102. Establishment.

"2103. Officers.

"2104. Administrative provisions.

"2105. Personnel and services.

"2106. Reports to Congress.

"2107. Acceptance of records for historical preservation.

"2108. Responsibility for custody, use, and withdrawal of records.

"2109. Preservation, arrangement, duplication, exhibition of records.

"2110. Servicing records.

"2111. Material accepted for deposit.

"2112. Presidential archival depository.

"2113. Depository for agreements between States.

"2114. Preservation of motion-picture films, still pictures, and sound recordings.

"2115. Reports; correction of violations.

"2116. Legal status of reproductions; official seal, fees for copies and reproductions.

"2117. Limitation on liability.

"2118. Records of Congress."

9 (2) The item relating to chapter 21 in the table of chap-
 10 ters for title 44, United States Code, is amended to read as
 11 follows:

"21. National Archives and Records Administration..... 2101".

12 **TRANSFERS**

13 SEC. 103. (a) The National Archives and Records
 14 Service of the General Services Administration is trans-
 15 ferred to the National Archives and Records Administration.

1 (b)(1) All functions which were assigned to the Admin-
2 istrator of General Services by section 6 of Executive Order
3 No. 10530 of May 11, 1954 (19 Fed. Reg. 2709; relating to
4 documents and the Administrative Conference of the Federal
5 Register), and by Executive Order No. 11440 of December
6 11, 1968 (33 Fed. Reg. 18475; relating to supplemental use
7 of Federal exhibits and displays), shall be exercised by the
8 Archivist of the United States.

9 (2) All functions pertaining to the maintenance, oper-
10 ation, and protection of a Presidential archival depository
11 which were assigned to the Administrator of General Serv-
12 ices by the Act of September 6, 1965 (Public Law 89-169,
13 79 Stat. 648), relating to the Lyndon Baines Johnson Presi-
14 dential Archival Depository, and by the Act of August 27,
15 1966 (Public Law 89-547, 80 Stat. 370) and the Act of
16 May 26, 1977 (Public Law 95-34, 91 Stat. 174), relating to
17 the John Fitzgerald Kennedy Library, shall be exercised by
18 the Archivist of the United States.

19 (3) All functions which were assigned to the Adminis-
20 trator of General Services by the sections 5.1(b) and 5.2(a)
21 of Executive Order No. 12356 of April 2, 1982 (relating to
22 national security information and the Information Security
23 Oversight Office), shall be exercised by the Archivist of the
24 United States.

1 (c) Prior to the appointment and confirmation of an in-
2 dividual to serve as Archivist of the United States under sec-
3 tion 2103 of title 44, United States Code, the individual
4 holding the office of Archivist of the United States on the day
5 before the effective date of this Act may serve as Archivist
6 under such section, and while so serving shall be compensat-
7 ed at the rate provided under subsection (b) of such section.

8 TRANSFER OF PERSONNEL

9 SEC. 104. (a) Except as otherwise provided in this Act,
10 the personnel employed in connection with, and the assets,
11 liabilities, contracts, property, records, and unexpended bal-
12 ances of appropriations, authorizations, allocations, and other
13 funds employed, held, used, arising from, available to or to be
14 made available in connection with the functions and agencies
15 transferred by this Act or the amendments made by this Act,
16 subject to section 1531 of title 31, United States Code, are
17 transferred to the Archivist for appropriate allocation. A per-
18 centage of the funds and associated positions in the General
19 Management and Administration appropriation for the Gen-
20 eral Services Administration, proportionate to the percentage
21 of National Archives and Records Service employees in the
22 General Services Administration, is transferred to the Archi-
23 vist for appropriate allocation. Unexpended funds transferred
24 pursuant to this subsection shall be used only for the pur-

1 poses for which the funds were originally authorized and
2 appropriated.

3 (b) The transfer pursuant to this title of full-time per-
4 sonnel (except special Government employees) and part-time
5 personnel holding permanent positions shall not cause any
6 such employees to be separated or reduced in grade or com-
7 pensation for one year after such transfer or after the effective
8 date of this Act, whichever is later.

9 SAVINGS PROVISIONS

10 SEC. 105. (a) All orders, determinations, rules, regula-
11 tions, grants, contracts, agreements, permits, licenses, privi-
12 leges, and other actions which have been issued, granted,
13 made, undertaken, or entered into in the performance of any
14 function transferred by this Act or the amendments made by
15 this Act shall continue in effect according to their terms until
16 modified, terminated, superseded, set aside, or revoked in ac-
17 cordance with law by any authorized official, a court of com-
18 petent jurisdiction, or by operation of law.

19 (b)(1) The transfer of functions by this Act and by the
20 amendments made by this Act shall not affect any proceed-
21 ings, including notices of proposed rulemaking, or any appli-
22 cation for any license, permit, certificate, or financial assist-
23 ance pending on the effective date of this Act before the Gen-
24 eral Services Administration; but such proceedings and ap-
25 plications, to the extent that they relate to the functions so

1 transferred, shall be continued. Orders shall be issued in
2 such proceedings, appeals shall be taken therefrom, and pay-
3 ments shall be made pursuant to such orders, as if this Act
4 had not been enacted; and orders issued in any such proceed-
5 ings shall continue in effect until modified, terminated, su-
6 perseded, or revoked by the Archivist, by a court of competent
7 jurisdiction, or by operation of law. Nothing in this subsec-
8 tion shall be deemed to prohibit the discontinuance or modifi-
9 cation of any such proceeding under the same terms and con-
10 ditions and to the same extent that such proceeding could
11 have been discontinued or modified if this Act had not been
12 enacted.

13 (2) The Archivist is authorized to promulgate regula-
14 tions providing for the orderly transfer of proceedings contin-
15 ued under paragraph (1) from the General Services Admin-
16 istration to the Administration.

17 (c) Except as provided in subsection (e)—

18 (1) the provisions of this Act and of the amend-
19 ments made by this Act shall not affect actions com-
20 menced prior to the effective date of this Act, and

21 (2) in all such actions, proceedings shall be had,
22 appeals taken, and judgments rendered in the same
23 manner and effect as if this Act had not been enacted.

24 (d) No action or other proceeding lawfully commenced
25 by or against any officer of the United States acting in his or

1 *her official capacity shall abate by reason of any transfer of*
2 *functions by this Act or by an amendment made by this Act.*
3 *No cause of action by or against the General Services Ad-*
4 *ministration or by or against any officer thereof in the offi-*
5 *cial capacity of such officer shall abate by reason of any such*
6 *transfer of functions.*

7 (e) *If, before the date on which this Act takes effect, the*
8 *General Services Administration or any officer thereof in the*
9 *official capacity of such officer, is a party to an action, and*
10 *under this Act any function in connection with such action is*
11 *transferred to the Archivist or any other official of the Ad-*
12 *ministration, then such action shall be continued with the*
13 *Archivist or other appropriate official of the Administration*
14 *substituted or added as a party.*

15 (f) *Orders and actions of the Archivist in the exercise of*
16 *functions transferred by this Act or by amendments made by*
17 *this Act shall be subject to judicial review to the same extent*
18 *and in the same manner as if such orders and actions had*
19 *been by the individual holding the office of Archivist of the*
20 *United States on the day before the effective date of this Act*
21 *or the Administrator of General Services in the exercise of*
22 *such functions immediately preceding their transfer. Any*
23 *statutory requirements relating to notice, hearings, action*
24 *upon the record, or administrative review that apply to any*
25 *function transferred by this Act or by any amendment made*

1 *by this Act shall apply to the exercise of such function by the*
2 *Archivist.*

3 *REFERENCE*

4 *SEC. 106. With respect to any functions transferred by*
5 *this Act or by an amendment made by this Act and exercised*
6 *after the effective date of this Act, reference in any other Fed-*
7 *eral law to the office of the Archivist of the United States as*
8 *in existence on the date before the effective date of this Act, or*
9 *the National Archives and Records Service of the General*
10 *Services Administration, or any office or officer thereof, shall*
11 *be deemed to refer to the Archivist or the Administration.*

12 *CONFORMING AMENDMENTS*

13 *SEC. 107. (a)(1) Section 2107 of title 44, United*
14 *States Code, as redesignated by section 102(a)(1), is*
15 *amended—*

16 *(A) by striking out "Administrator of General*
17 *Services" and inserting in lieu thereof "Archivist";*

18 *(B) by striking out "Administrator" each place it*
19 *appears and inserting in lieu thereof "Archivist"; and*

20 *(C) by striking out "section 2107" in paragraph*
21 *(4) and inserting in lieu thereof "section 2111".*

22 *(2) Section 2108 of such title, as redesignated by sec-*
23 *tion 102(a)(1), is amended—*

24 *(A) by striking out "the Administrator, the Archi-*
25 *vist of the United States, and to the employees of the*

1 *General Services Administration*” in subsection (a)
2 and inserting in lieu thereof “the Archivist and to the
3 employees of the National Archives and Records
4 Administration”;

5 (B) by striking out “and in consultation with the
6 Archivist of the United States” in such subsection;

7 (C) by striking out “the Archivist and” in the
8 fifth sentence of such subsection;

9 (D) by striking out “Administrator of General
10 Services” each place it appears and inserting in lieu
11 thereof “Archivist”; and

12 (E) by striking out “Administrator” each place it
13 appears and inserting in lieu thereof “Archivist”.

14 (3) Section 2109 of such title, as redesignated by sec-
15 tion 102(a)(1), is amended by striking out “Administrator of
16 General Services” and inserting in lieu thereof “Archivist”.

17 (4) Section 2110 of such title, as redesignated by sec-
18 tion 102(a)(1), is amended by striking out “Administrator of
19 General Services” and inserting in lieu thereof “Archivist”.

20 (5) Section 2111 of such title, as redesignated by sec-
21 tion 102(a)(1), is amended—

22 (A) by striking out “Administrator of General
23 Services” and inserting in lieu thereof “Archivist”;
24 and

1 (B) by striking out "Administrator" and insert-
2 ing in lieu thereof "Archivist".

3 (6) Section 2112 of such title, as redesignated by sec-
4 tion 102(a)(1), is amended—

5 (A) by striking out "Administrator of General
6 Services" and inserting in lieu thereof "Archivist";

7 (B) by striking out "Administrator" each place it
8 appears and inserting in lieu thereof "Archivist"; and

9 (C) by striking out "section 2107" each place it
10 appears and inserting in lieu thereof "section 2111".

11 (7) Sections 2113, 2114, and 2117 of such title, as re-
12 designated by section 102(a)(1), are amended by striking out
13 "Administrator of General Services" and inserting in lieu
14 thereof "Archivist".

15 (8) Sections 2115 and 2116 of such title, as redesignat-
16 ed by section 102(a)(1), are amended—

17 (A) by striking out "Administrator of General
18 Services" and inserting in lieu thereof "Archivist";
19 and

20 (B) by striking out "Administrator" each place it
21 appears and inserting in lieu thereof "Archivist".

22 (9) Section 2118 of such title, as redesignated by sec-
23 tion 102(a)(1), is amended by striking out "General Serv-
24 ices Administration" and inserting in lieu thereof "National
25 Archives and Records Administration".

1 (b)(1) Sections 710, 711, and 729 of title 44, United
2 States Code, are amended by striking out "Administrator of
3 General Services" each place it appears and inserting in lieu
4 thereof "Archivist of the United States".

5 (2) Section 1502 of such title is amended by striking
6 out "Administrator of General Services" each place it ap-
7 pears and inserting in lieu thereof "Archivist of the United
8 States".

9 (3) Section 1503 of such title is amended—

10 (A) by striking out "Administrator of General
11 Services" and inserting in lieu thereof "Archivist of
12 the United States";

13 (B) by striking out "General Services Adminis-
14 tration" and inserting in lieu thereof "National Ar-
15 chives and Records Administration"; and

16 (C) by striking out "Administrator" and inserting
17 in lieu thereof "Archivist".

18 (4) Section 1506 of such title is amended is amended by
19 striking out the third sentence.

20 (5) Section 1714 of such title is amended by striking
21 out "General Services Administration" and inserting in lieu
22 thereof "National Archives and Records Administration".

23 (6) Sections 2204(c)(1) and 2205 of such title are
24 amended by striking out "National Archives and Records
25 Service of the General Services Administration" and insert-

1 ing in lieu thereof "National Archives and Records Adminis-
2 tration".

3 (7) Section 2301 of such title is amended by striking
4 out the second sentence thereof.

5 (8) Section 2501 of such title is amended by striking
6 out the last sentence thereof.

7 (9) Section 2504 is amended—

8 (A) by striking out "Administrator of General
9 Services" in the third sentence of subsection (a) and
10 inserting in lieu thereof "Archivist of the United
11 States";

12 (B) by striking out "Administrator" in the fourth
13 sentence of such subsection and inserting in lieu there-
14 of "Archivist";

15 (C) by striking out "transmit to the Administra-
16 tor" in the last sentence of such subsection and insert-
17 ing in lieu thereof "make available to the public"; and

18 (D) by striking out "General Services Adminis-
19 trator" in subsection (b) and inserting in lieu thereof
20 "National Archives and Records Administration".

21 (10) Section 2506 of such title is amended—

22 (A) by striking out "Administrator of General
23 Services" in subsection (a) and inserting in lieu there-
24 of "Archivist of the United States"; and

1 (B) by striking out "Administrator" in subsection
2 (b) and inserting in lieu thereof "Archivist".

3 (11) Section 2507 of such title is amended by striking
4 out "Administrator of General Services" and inserting in
5 lieu thereof "Archivist of the United States".

6 (12) Section 2901 of such title is amended—

7 (A) by inserting before the semicolon at the end of
8 paragraph (2) the following: "to achieve adequate and
9 proper documentation of the policies and transactions
10 of the Federal Government and effective and economi-
11 cal management of agency operations";

12 (B) by striking out "Administrator" each place it
13 appears in paragraphs (6), (9), and (11) and inserting
14 in lieu thereof "Archivist"; and

15 (C) by redesignating paragraphs (12) and (13) as
16 paragraphs (13) and (14), respectively, and by insert-
17 ing after paragraph (11) the following new paragraph:

18 "(12) the term 'Archivist' means the Archivist of
19 the United States;".

20 (13) Section 2902(7) is amended by inserting "or
21 the Archivist" after "Administrator".

22 (14) Sections 2903, 2905~~06~~, 2907, 2908, and 2909 of
23 such title are amended by striking out "Administrator" and
24 "Administrator of General Services" each place they appear
25 and inserting in lieu thereof "Archivist".

1 (15) Section 2904 is amended to read as follows:

2 *"§ 2904. General responsibilities for records management*

3 *"(a) The Archivist shall provide guidance and assist-*
4 *ance to Federal agencies with respect to ensuring adequate*
5 *and proper documentation of the policies and transactions of*
6 *the Federal Government and ensuring proper records*
7 *disposition.*

8 *"(b) The Administrator shall provide guidance and as-*
9 *sistance to Federal agencies to ensure economical and effec-*
10 *tive records management by such agencies.*

11 *"(c) In carrying out their responsibilities under subsec-*
12 *tion (a) or (b), respectively, the Archivist and the Adminis-*
13 *trator shall each have the responsibility—*

14 *"(1) to promulgate standards, procedures, and*
15 *guidelines with respect to records management and the*
16 *conduct of records management studies;*

17 *"(2) to conduct research with respect to the im-*
18 *provement of records management practices and*
19 *programs;*

20 *"(3) to collect and disseminate information on*
21 *training programs, technological developments, and*
22 *other activities relating to records management;*

23 *"(4) to establish such interagency committees and*
24 *boards as may be necessary to provide an exchange of*

1 information among Federal agencies with respect to
2 records management;

3 "(5) to direct the continuing attention of Federal
4 agencies and the Congress on the need for adequate
5 policies governing records management;

6 "(6) to conduct records management studies and,
7 in his discretion, designate the heads of executive agen-
8 cies to conduct records management studies with re-
9 spect to establishing systems and techniques designed
10 to save time and effort in records management;

11 "(7) to conduct inspections or surveys of the
12 records and the records management programs and
13 practices within and between Federal agencies;

14 "(8) to report to the appropriate oversight and ap-
15 propriations committees of the Congress and to the Di-
16 rector of the Office of Management and Budget annu-
17 ally and at such other times as the Archivist or the Ad-
18 ministrator (as the case may be) deems desirable—

19 "(A) on the results of activities conducted
20 pursuant to paragraphs (1) through (7) of this
21 section,

22 "(B) on evaluations of responses by Federal
23 agencies to any recommendations resulting from
24 inspections or studies conducted under paragraphs
25 (6) and (7) of this section, and

1 “(C) to the extent practicable, estimates of
2 costs to the Federal Government resulting from
3 the failure of agencies to implement such recom-
4 mendations.

5 “(d) In addition, the Administrator, in carrying out the
6 responsibilities under subsection (b) shall have the responsi-
7 bility to promote economy and efficiency in the selection and
8 utilization of space, staff, equipment, and supplies for records
9 management.”.

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10 (16) Section 2906 of such title is amended to read as
11 follows:

12 “§ 2906. Inspection of agency records

13 “(a)(1) In carrying out their respective duties and re-
14 sponsibilities under this chapter, the Administrator of Gener-
15 al Services and the Archivist (or the designee of either) may
16 inspect the records or the records management practices and
17 programs of any Federal agency solely for the purpose of
18 rendering recommendations for the improvement of records
19 management practices and programs. Officers and employees
20 of such agencies shall cooperate fully in such inspections,
21 subject to the provisions of paragraphs (2) and (3) of this
22 subsection.

23 “(2) Records, the use of which is restricted by law or for
24 reasons of national security or the public interest, shall be
25 inspected, in accordance with regulations promulgated by the

1 Administrator and the Archivist, subject to the approval of
2 the head of the agency concerned or of the President. The
3 regulations promulgated by the Administrator and the Archi-
4 vist under this paragraph shall, to the extent practicable, be
5 identical.

6 “(3) If the Administrator or the Archivist (or the desig-
7 nee of either) inspects a record, as provided in this subsec-
8 tion, which is contained in a system of records which is sub-
9 ject to section 552a of title 5, such record shall be—

10 “(A) maintained by the Administrator, the Archi-
11 vist, or such designee as a record contained in a
12 system of records; or

13 “(B) deemed to be a record contained in a system
14 of records for purposes of subsections (b), (c), and (i) of
15 section 552a of title 5.

16 “(b) In conducting the inspection of agency records pro-
17 vided for in subsection (a) of this section, the Administrator
18 and the Archivist (or the designee of either) shall, in addition
19 to complying with the provisions of law cited in subsection
20 (a)(3), comply with all other Federal laws and be subject to
21 the sanctions provided therein.”.

22 (17)(A) The heading of chapter 29 of title 44, United
23 States Code, is amended by inserting “**BY THE ARCHI-**
24 **VIST OF THE UNITED STATES AND**” after
25 “**RECORDS MANAGEMENT**”.

1 (B) The item relating to chapter 29 in the table of chap-
2 ters for title 44, United States Code, is amended to read as
3 follows:

*"29. Records Management by the Archivist of the United States
 and by the Administrator of General Services..... 2901".*

4 (18) Section 3102 of such title is amended—

5 (A) by inserting "and the Archivist of the United
6 States" after "Administrator of General Services" in
7 paragraph (2);

8 (B) by striking out "sections 2101-2113" and in-
9 serting in lieu thereof "sections 2101-2117"; and

10 (C) by striking out "2701,".

11 (19) Section 3103 of such title is amended by striking
12 out "Administrator" and inserting in lieu thereof "Archivist
13 of the United States".

14 (20) Sections 3104 and 3106 of such title are
15 amended—

16 (A) by striking out "Administrator of General
17 Services" and inserting in lieu thereof "Archivist of
18 the United States"; and

19 (B) by striking out "Administrator" and insert-
20 ing in lieu thereof "Archivist".

21 (21) Section 3105 of such title is amended by striking
22 out "Administrator of General Services" and inserting in
23 lieu thereof "Archivist of the United States".

1 (22) Sections 3302, 3303, 3308, and 3311 of such title
2 are amended by striking out "Administrator of General
3 Services" and inserting in lieu thereof "Archivist of the
4 United States".

5 (23) Sections 3303a and 3310 of such title are
6 amended—

7 (A) by striking out "Administrator of General
8 Services" and inserting in lieu thereof "Archivist of
9 the United States"; and

10 (B) by striking out "Administrator" each place it
11 appears and inserting in lieu thereof "Archivist".

12 (24)(A) The headings of sections 3303, 3303a, and
13 3311 of such title are amended by striking out "Adminis-
14 trator of General Services" and inserting in lieu thereof
15 "Archivist of the United States".

16 (B) The table of sections for chapter 33 of such title is
17 amended by striking out "Administrator of General Serv-
18 ices" in the items pertaining to sections 3303, 3303a, and
19 3311 and inserting in lieu thereof "Archivist of the United
20 States".

21 (25) Section 3504(e) of such title is amended by insert-
22 ing "the Archivist of the United States and" before "the Ad-
23 ministrator of General Services" each place it appears in
24 paragraphs (1) and (2).

1 (26) Section 3513 of such title is amended by inserting
2 *"and the Archivist of the United States"* after *"Administra-*
3 *tor of General Services"*.

4 (c)(1) Section 101 of the Presidential Recordings and
5 Materials Preservation Act is amended—

6 (A) by striking out *"section 2107"* each place it
7 appears and inserting in lieu thereof *"section 2111"*;

8 (B) by striking out *"Administrator of General*
9 *Services (hereinafter referred to as the 'Administra-*
10 *tor')"* and inserting in lieu thereof *"Archivist of the*
11 *United States (hereinafter referred to as the 'Archi-*
12 *vist')"*; and

13 (C) by striking out *"Administrator"* each place it
14 appears and inserting in lieu thereof *"Archivist"*.

15 (2) Section 102 of such Act is amended—

16 (A) by striking out *"section 2107"* and inserting
17 in lieu thereof *"section 2111"*, and

18 (B) by striking out *"Administrator"* each place it
19 appears and inserting in lieu thereof *"Archivist"*.

20 (3) Section 103 of such Act is amended by striking out
21 *"Administrator"* and inserting in lieu thereof *"Archivist"*.

22 (d) Sections 106a, 106b, 112, 113, and 201 of title 1,
23 United States Code, are amended by striking out *"Adminis-*
24 *trator of General Services"* and *"General Services Adminis-*
25 *tration"* each place they appear and inserting in lieu thereof

1 *"Archivist of the United States" and "National Archives*
2 *and Records Administration", respectively.*

3 *(e)(1) Sections 6 and 11 through 13 of title 3, United*
4 *States Code, are amended by striking out "Administrator of*
5 *General Services" and "General Services Administration"*
6 *each place they appear and inserting in lieu thereof "Archi-*
7 *vist of the United States," and "National Archives and*
8 *Records Administration", respectively.*

9 *(2) The headings of sections 6 and 12 of such title are*
10 *amended by striking out "Administrator of General*
11 *Services" and inserting in lieu thereof "Archivist of the*
12 *United States".*

13 *(3) The table of sections for chapter 1 of such title is*
14 *amended by striking out "Administrator of General Serv-*
15 *ices" in the items pertaining to sections 6 and 12 and insert-*
16 *ing in lieu thereof "Archivist of the United States".*

17 *(f) Sections 141 through 145 of title 4, United States*
18 *Code, are amended by striking out "Administrator of Gener-*
19 *al Services", "Administrator", and "General Services Ad-*
20 *ministration" each place they appear and inserting in lieu*
21 *thereof "Archivist of the United States", "Archivist", and*
22 *"National Archives and Records Administration",*
23 *respectively.*

24 *(g) Subsections (b)(6) and (l)(1) of section 552a of title*
25 *5, United States Code, are amended by striking out "Admin-*

1 *istrator of General Services" each place it appears and in-*
2 *serting in lieu thereof "Archivist of the United States."*

3 *(h) Section 5314 of title 5, United States Code, is*
4 *amended by adding at the end thereof the following:*

5 *"Archivist of the United States."*

6 *(i) Section 4(5) of the Act of October 25, 1951 (25*
7 *U.S.C. 199a) is amended by striking out "Administrator of*
8 *General Services" each place it appears and inserting in lieu*
9 *thereof "Archivist of the United States".*

10 *DEFINITIONS*

11 *SEC. 108. For purposes of sections 103 through 106—*

12 *(1) the term "Archivist" means the Archivist of*
13 *the United States appointed under section 2103 of title*
14 *44, United States Code, as added by section 2 of this*
15 *Act;*

16 *(2) the term "Administration" means the Nation-*
17 *al Archives and Records Administration established*
18 *under section 2102 of such title (as amended by section*
19 *2 of this Act); and*

20 *(3) the term "function" includes any duty, obliga-*
21 *tion, power, authority, responsibility, right, privilege,*
22 *activity, or program.*

23 *EFFECTIVE DATE*

24 *SEC. 109. The provisions of this title shall be effective*
25 *120 days after the date of enactment of this Act.*

1 *TITLE II—ADMINISTRATIVE PROVISIONS*2 *COPYING AND AUTHENTICATING CHARGES*

3 *SEC. 201. Section 2116(c) of title 44, United States*
4 *Code (as redesignated by section 102(a)), is amended to read*
5 *as follows:*

6 *“(c) The Archivist may charge a fee set to recover the*
7 *costs for making or authenticating copies or reproductions of*
8 *materials transferred to his custody. Such fee shall be fixed*
9 *by the Archivist at a level which will recover, so far as practi-*
10 *cable, all elements of such costs, and may, in the Archivist’s*
11 *discretion, include increments for the estimated replacement*
12 *cost of equipment.)* ~~The Archivist may not charge for making~~
13 *or authenticating copies or reproductions of materials for offi-*
14 *cial use by the United States Government unless appropri-* STAT
15 *ations available to the Archivist for this purpose are insuffi-*
16 *cient to cover the cost of performing the work.* ~~Fees shall be~~
17 *deposited to the credit of the appropriation against which*
18 *charges have been made.”*

19 *NATIONAL ARCHIVES TRUST FUND BOARD*

20 *SEC. 202. (a) Chapter 23 of title 44, United States*
21 *Code, is amended by striking out sections 2302 through 2305*
22 *and inserting in lieu thereof the following:*

1 *"§ 2302. Authority of the Board; seal; services; annual*
2 *report; bylaws; rules; regulations*

3 *"In carrying out the purposes of this chapter, the Board*
4 *shall—*

5 *"(1) adopt an official seal, which shall be judici-*
6 *ally noticed;*

7 *"(2) utilize on a reimbursable basis the services*
8 *and personnel of the National Archives and Records*
9 *Administration necessary (as determined by the Archi-*
10 *vist) to assist the Board in the administration of the*
11 *trust fund, and in the preparation and publication of*
12 *special works and collections of sources and prepara-*
13 *tion, duplication, editing, and release of historical pho-*
14 *tographic materials and sound recordings;*

15 *"(3) submit to the Congress an annual report of*
16 *the moneys, securities, and other personal property re-*
17 *ceived and held by it, and of its operations, which shall*
18 *include a listing of the purposes for which funds are*
19 *transferred to the National Archives and Records Ad-*
20 *ministration for expenditure;*

21 *"(4) adopt bylaws, rules, and regulations neces-*
22 *sary for the administration of its functions under this*
23 *chapter.*

1 *"§ 2303. Powers and obligations of the Board; liability of*
2 *members*

3 *"Except as otherwise provided by this chapter, the*
4 *Board shall have all the usual powers and obligations of a*
5 *trustee with respect to property and funds administered by it,*
6 *but the members of the Board are not personally liable,*
7 *except for malfeasance.*

8 *"§ 2304. Compensation of members; availability of trust*
9 *funds for expenses of the Board*

10 *"Compensation may not be paid to the members of the*
11 *Board for their services as members. Costs incurred by the*
12 *Board in carrying out its duties under this chapter, includ-*
13 *ing the obligations necessarily incurred by the members of the*
14 *Board in the performance of their duties, shall be paid by the*
15 *Archivist of the United States from trust funds available to*
16 *the Board for this purpose. The Board, by resolution may*
17 *authorize the transfer of funds (including the principal or*
18 *interest of a gift or request) to the National Archives and*
19 *Records Administration to be expended on an archival or*
20 *records activity approved by the Board or to accomplish the*
21 *purpose of a gift or bequest. [Unless otherwise required by the*
22 *instrument of gift or bequest, no expenditure shall be ap-*
23 *proved or made toward an object or purposes for which appro-*
24 *priated funds could not be expended.]*

1 *"§ 2305. Acceptance of gifts*

2 *"The Board may solicit and accept gifts or bequests of*
3 *money, securities, or other personal property, for the benefit*
4 *of or in connection with the national archival and records*
5 *activities administered by the National Archives and Records*
6 *Administration. Moneys that are for deposit into the trust*
7 *fund shall be deposited within ~~6 working days~~ of the receipt*
8 *thereof."*

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9 *(b) Section 2307 of title 44, United States Code, is*
10 *amended to read as follows:*

11 *"§ 2307. Trust fund account; disbursements; sales of publi-*
12 *cations and releases*

13 *"The income from trust funds held by the Board and the*
14 *proceeds from the sale of securities and other personal proper-*
15 *ty, as and when collected, shall be covered into the Treasury*
16 *of the United States in a trust fund account to be known as*
17 *the National Archives Trust Fund, subject to disbursement*
18 *on the basis of certified vouchers of the Archivist of the*
19 *United States (or his designee) for activities approved by the*
20 *Board and in the interest of the national archival and records*
21 *activities administered by the National Archives and Records*
22 *Administration, including but not restricted to the prepara-*
23 *tion and publication of special works, and collections of*
24 *sources and the preparation, duplication, editing, and release*
25 *of historical photographic materials and sound recordings.*
26 *The Archivist may sell publications and releases authorized*

1 by this section and paid for out of the income derived from
2 trust funds at a price which will cover their costs and moneys
3 received from these sales shall be paid into, administered,
4 and expended as part of the National Archives Trust Fund.”.

5 (c) The table of sections for chapter 23 of title 44,
6 United States Code, is amended by striking out “employ-
7 ees;” in the item pertaining to section 2302 and inserting in
8 lieu thereof “services; annual report;”.

9 **AUTHORITY TO LITIGATE**

10 **SEC. 203.** (a) Section 2905(a) of title 44, United
11 States Code, is amended by adding at the end thereof the
12 following new sentence: “In any case in which the head of
13 the agency fails to initiate an action for such recovery or
14 other redress within a reasonable period of time after being
15 notified of any such unlawful action, the Archivist of the
16 United States may, through the Attorney General, initiate
17 such an action; and the Archivist shall report the circum-
18 stances of any such failure by the head of the agency to
19 appropriate committees of the Congress.”.

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20 (b) Section 3106 of title 44, United States Code, is
21 amended by adding at the end thereof the following new sen-
22 tence: “In any case in which the head of the agency fails to
23 initiate an action for such recovery or other redress within a
24 reasonable period of time after being notified of any such
25 unlawful action, the Archivist of the United States may,

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1 *through the Attorney General, initiate such an action; and*
2 *the Archivist shall report the circumstances of any such fail-*
3 *ure by the head of the agency to the appropriate committees of* STAT
4 *the Congress."*

5 *INSPECTION OF RECORDS*

6 *SEC. 204. Section 3301 of title 44, United States*
7 *Code, is amended—*

8 *(1) by inserting "(a)" before "As used in this*
9 *chapter,";*

10 *(2) by inserting ", as determined by the Archivist*
11 *of the United States," after "public business and pre-*
12 *served or"; and*

13 *(3) by adding at the end thereof the following new*
14 *subsection:*

15 *"(b) The Archivist of the United States shall, by regula-*
16 *tion, establish detailed criteria under which material shall be*
17 *examined to determine if it is a record as defined under sub-*
18 *section (a) and such regulation. The Archivist may have*
19 *access, to determine compliance with such subsection and*
20 *such regulations, to any material made or received by an*
21 *agency of the United States Government."*

22 *PUBLIC NOTICE*

23 *SEC. 205. Section 3303a(a) of title 44, United States*
24 *Code, is amended by inserting ", after publication of notice*
25 *in the Federal Register and an opportunity for interested per-*

34

- 1 sons to submit comment thereon" immediately after "may"
- 2 in the second sentence thereof.

○

AMENDMENT TO H.R. 3987
(COMMITTEE PRINT OF APRIL 5, 1984) STAT
OFFERED BY MR. BROOKS

✓ Page 18, line 22, strike out "'2905(b)'" and insert in lieu thereof "'2905'".

✓ Page 28, beginning on line 16, strike out "'Fees shall be'" and all that follows through "'have been made.'" on line 18; and on line 12, after "equipment." insert the following: "'Such fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund.'".

Page 29, strike out line 1 and all that follows through line 23 and insert in lieu thereof the following:

1 "'§2302. Authority of the Board; seal; services; annual
2 report; bylaws; rules; regulations
3 "'In carrying out the purposes of this chapter, the
4 Board--
5 "'(1) may adopt an official seal, which shall be
6 judicially noticed;
7 "'(2) may utilize on a reimbursable basis the
8 services and personnel of the National Archives and
9 Records Administration necessary (as determined by the
10 Archivist) to assist the Board in the administration of
11 the trust fund, and in the preparation and publication

1 of special works and collections of sources and
2 preparation, duplication, editing, and release of
3 historical photographic materials and sound recordings,
4 and may utilize on a reimbursable basis the services and
5 personnel of other Federal agencies for such purposes;

6 "(3) shall submit to the Congress an annual report,
7 by account, of the moneys, securities, and other
8 personal property received and held by it, and of its
9 operations, which shall include a listing of the
10 purposes for which funds are transferred to the National
11 Archives and Records Administration for expenditure and
12 to other Federal agencies;

13 "(4) may adopt bylaws, rules, and regulations
14 necessary for the administration of its functions under
15 this chapter; and

16 "(5) may, subject to the laws and regulations
17 governing appointments in the competitive service,
18 ✓ appoint and fix the compensation of such personnel as
19 may be necessary to carry out its functions.

✓ Page 30, beginning on line 21, strike out "'Unless
otherwise required by the'" and all that follows through
line 24.

Page 31, line 7, strike out "'5 working days'" and

insert in lieu thereof '10 working days'.

Page 32, line 2, insert 'plus 10 percent' after
'cover their cost'.

Page 32, lines 16 and 25, strike out 'may,' and insert
in lieu thereof 'shall,'.

Page 32, line 18, and page 33, line 3, after 'head of
the agency' insert the following: 'or of any refusal of
the Attorney General to initiate such an action,'.

Under Federal principles:

to be adopted by the Federal Government

necessary for the administration of

the Federal Government:

to be adopted by the Federal Government

to be adopted by the Federal Government

to be adopted by the Federal Government

to be adopted by the Federal Government